

MANDATE

S.D.N.Y. – N.Y.C.
17-cr-548
Crotty, J.

United States Court of Appeals FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 26th day of October, two thousand twenty-one.

Present:

John M. Walker, Jr.,
Robert D. Sack,
Susan L. Carney,
Circuit Judges.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/3/2021

In Re: Joshua Schulte,

21-1445

Petitioner.

Petitioner, pro se, has filed a petition for a writ of mandamus and moves for leave to proceed in forma pauperis. Upon due consideration, it is hereby ORDERED that the motion for leave to proceed in forma pauperis is GRANTED for the purpose of filing the mandamus petition. It is further ORDERED that the mandamus petition is DENIED because Petitioner has not demonstrated that he lacks an adequate alternative means of obtaining relief, that his right to the writ is clear and indisputable, and that granting the writ is appropriate under the circumstances. *See Cheney v. U.S. Dist. Ct. for D.C.*, 542 U.S. 367, 380–81 (2004).

Petitioner argues that the district judge's management of his criminal case creates an impression of prejudice. But "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *Liteky v. United States*, 510 U.S. 540, 555 (1994). Additionally, Schulte has not explained why he lacks "an adequate alternative means" of relief. *In re Steinhardt Partners, L.P.*, 9 F.3d 230, 233 (2d Cir. 1993). Notably, he has not filed a recusal motion in the district court. Further, he may challenge the judge's adverse rulings on direct appeal once judgment has been entered. Accordingly, the writ of mandamus will not issue.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

Catherine O'Hagan Wolfe



Catherine O'Hagan Wolfe

MANDATE ISSUED ON 01/03/2022